

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

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Chair  
Commissioner  
Commissioner  
Commissioner  
Commissioner

In the Matter of the Request of Northern States  
Power Company d/b/a Xcel Energy for  
Approval of Selected Projects for the Second  
Funding Cycle of the Renewable Development  
Fund

ISSUE DATE: June 24, 2005

DOCKET NO. E-002/M-03-1883

ORDER MODIFYING AND APPROVING  
GRANT CONTRACT, REQUIRING FUTURE  
FILINGS, AND DENYING REQUEST TO  
DEPART FROM INTER-JURISDICTIONAL  
ALLOCATION PROCEDURES

**PROCEDURAL HISTORY**

On August 31, 2004, Northern States Power Company d/b/a Xcel Energy (Xcel) filed a petition under Minn. Stat. § 116C.779, subd. 1 (b) for Commission approval of some \$22,700,000 in proposed expenditures from the Renewable Development Fund, which was established under that statute. The proposed expenditures were in the form of grants to 25 renewable energy projects:<sup>1</sup> seven power production projects and 18 research and development projects.

The petition attached and incorporated the report of the Renewable Development Fund Board, established by Commission Order in 2001,<sup>2</sup> which had directed the grant competition and selected the projects proposed for funding. The report explained the Board's decision-making process, requested approval to fund the projects the Board had selected, and requested guidance on the Board's future treatment of a rejected project that the Legislature had specifically made eligible for a five-year, \$10,000,000 grant as an "innovative energy project" under Minn. Stat. § 216B.1694, subd. 2 (a) (8).

On February 23, 2005, the Commission issued an Order that approved the request to fund the projects selected by the Board/Xcel, provided the guidance requested by the Board on the treatment of the innovative energy project, and required the Board/Xcel to put the guidance into effect during this funding cycle by funding the innovative energy project under the terms and conditions established in the innovative energy project statute.

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<sup>1</sup> The pool of projects recommended for funding was later expanded by three, to provide funding for projects that would have been funded initially but for scoring errors. Total proposed expenditures then totaled some \$26,500,000.

<sup>2</sup> *In the Matter of the Request of Northern States Power Company d/b/a Xcel Energy for Approval of a Development Fund Oversight Process*, Docket No. E-002/M-00-1583, Order Adopting Proposal for Oversight and Operation of Renewable Development Fund (April 20, 2001).

On March 25, 2005, Xcel filed a copy of the grant contract it had negotiated with Excelsior Energy Inc. (Excelsior), the developer of the innovative energy project, together with a petition for approval of the grant contract and a request to allocate all the contract's costs to Minnesota ratepayers, instead of allocating them system-wide.

On April 25, 2005, the Minnesota Department of Commerce (the Department) filed comments that recommended approving the grant contract and approving the request to allocate all contract costs to Minnesota ratepayers.

On June 9, 2005, Xcel's filing came before the Commission.

## **FINDINGS AND CONCLUSIONS**

### **I. Summary of Commission Action**

The Commission will approve the grant contract with modifications designed to more closely track the intent of the innovative energy project statute. The Commission will require periodic reporting on contract administration and prompt reporting of any unusual events, to ensure adequate regulatory oversight. And the Commission will require Xcel to apply standard allocation procedures to grant contract costs, which means allocating them system-wide. These actions will be explained in turn.

### **II. Contract Modified and Approved**

The statute authorizing the grant to the innovative energy project provides for a grant of "\$2,000,000 a year for five years."<sup>3</sup> The grant contract provides for Xcel to make two years' payments in 2005, apparently on the theory that the statute authorizing the grant had been in place throughout calendar year 2004, making payments for that year permissible.

The Commission finds that the public interest would be better served by limiting grant payments to \$2,000,000 per calendar year, as the statute anticipates. Limiting payments to \$2,000,000 per calendar year will permit more careful monitoring of contract administration and will ensure that Xcel, the Department, and the Commission all have adequate opportunity to fulfill their statutory responsibilities. It will also promote diversity in renewable energy development, a longstanding public policy goal, by freeing up fund monies for other renewable projects.

At the same time, the Commission clarifies that expenses reimbursable under the statute may be carried over from one calendar year to another. The intent of the statute is to reimburse identified engineering, design, and development expenses over a five-year period, and requiring precision in matching the time these expenses are incurred with the time they are paid would work against that goal.

### **III. Future Filings Required**

To ensure adequate regulatory oversight and to protect the public interest, it is important that the

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<sup>3</sup> Minn. Stat. § 216C.779, subd. 1 (b).

Commission and the Department receive prompt notice of developments that could fundamentally change the administration of the grant contract. The Commission will therefore require Xcel to file notice immediately should Excelsior exercise its right to assign the grant contract in whole or in part to an affiliate. Similarly, the Commission will require Xcel to promptly file notice if any of the events defining cause for termination in Section 10 of the grant contract occur or appear imminent.

Finally, for informational and monitoring purposes, Xcel will be required to file the following information over the course of the grant contract:

- Copies of all reports and updates required under Section 4(C) of the grant contract, including reports requested by Xcel under 4(C).
- All quarterly reports required under Section 4(F) of the grant contract.
- On a quarterly basis, and based on the information provided by Excelsior under Section 3(A) of the grant contract, the dollar amounts paid to Excelsior by category of Permitted Expense, with a brief description of why each paid expense qualifies as a Permitted Expense.

#### **IV. Standard Jurisdictional Allocation Procedures to Be Followed**

##### **A. Introduction**

Xcel serves ratepayers in Minnesota and neighboring states; it operates its generating facilities as an integrated system and allocates costs across the system based on numbers of ratepayers and other relevant factors. In a few cases, this and other state commissions have found certain costs to be so state-specific that they should be allocated only to the ratepayers of a specific state or states.

In June 2004, the Commission issued an Order determining the proper allocation of Xcel's Renewable Development Fund costs.<sup>4</sup> The Commission recognized that the Renewable Development Fund is an energy policy initiative of the State of Minnesota and that some of its expenditures are so Minnesota-specific that it is proper to allocate their costs to Minnesota ratepayers only. The Commission placed three Renewable Development Fund expenditures, or types of expenditures, in this category:

- A. A \$10,000,000, one-time grant to the University of Minnesota to support basic and applied energy research and demonstration activities, required under H.F. 9, 2003, 1<sup>st</sup> Special Session, Article 2, Section 18.
- B. Annual payments to renewable energy developers under the renewable energy production incentives program administered by the Minnesota Departments of Commerce and Finance under Minn. Stat. § 216B.1694, subd. 2.
- C. All costs associated with grants for research and development projects, including

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<sup>4</sup> *In the Matter of the Petition of Xcel Energy for Approval to Separate Renewable Development Fund Cost Recovery from the Fuel Clause Adjustment, Establish a Renewable Development Fund Rate Rider, and Establish Deferred Accounting Treatment*, E-002/M-03-2018, Order Changing Inter-jurisdictional Cost Allocations, Establishing Rate Rider, and Removing Renewable Development Fund Expenses from the Fuel Clause (June 11, 2004).

the grant awards themselves and the costs of their administration. After allocating 100% of these costs to Minnesota ratepayers, the Commission found it reasonable and appropriate to allocate system-wide the costs of “Category A” Renewable Development Fund projects, projects intended to generate electricity.

## **B. Commission Action**

In this case the Company contended, and the Department agreed, that (1) the grant to the innovative energy project more closely resembles a grant to a research and development project than a grant to a generating project, and (2) the innovative energy project is sufficiently Minnesota-specific in its focus and benefits to justify allocating costs to Minnesota ratepayers only. The Commission disagrees.

First, the innovative energy project does not just more closely resemble a generation project than a research and development project: it *is* a generation project. It is a 510-megawatt, base-load power plant. It is being developed for profit by an energy corporation. And while the plant has some of the qualities of a demonstration project – it uses developing “clean coal” technology, which drastically reduces emissions by transforming coal to a gas before combustion, and has therefore received a \$36,000,000 start-up grant from the United States Department of Energy – those qualities are incidental to its primary purpose, which is to generate electricity.

Second, the project’s benefits are not so Minnesota-specific as to justify requiring Minnesota ratepayers to bear its full costs; they will, in fact, accrue system-wide. Xcel’s access to efficient, reliable, base-load power will benefit every ratepayer on its system. The emission reductions attributable to the use of new, clean-coal technology will benefit all Xcel ratepayers and the region generally. And the new plant’s purchase of large amounts of coal for fuel will benefit non-Minnesota communities in the western portions of Xcel’s service area.

For all these reasons, the Commission concludes that the standard jurisdictional allocation procedures set forth in the June 2004 Order for “Category A” projects should be applied to the Excelsior project.

The Commission will so order.

## **ORDER**

1. The grant contract with Excelsior Energy Inc. filed by Xcel Energy is hereby approved with the following modifications:
  - A. Distribution of grant monies shall not exceed \$2,000,000 per calendar year, beginning with calendar year 2005, without limiting reimbursement for expenses incurred before the calendar year in which they are paid.
  - B. Xcel Energy shall file notice with the Commission and serve notice on the Department of Commerce if Excelsior assigns the grant contract, in whole or in part, to an affiliate.
  - C. Xcel Energy shall file notice with the Commission and serve notice on the Department of Commerce if any of the events defining cause for termination in Section 10 of the grant contract occur or appear imminent.
2. Xcel Energy shall file with the Commission and serve on the Department of Commerce the

items and information set forth below:

- A. Copies of all reports and updates required under Section 4(C) of the grant contract, including reports requested by Xcel under 4(C).
  - B. All quarterly reports required under Section 4(F) of the grant contract.
  - C. On a quarterly basis, and based on the information provided by Excelsior under Section 3(A) of the grant contract, the dollar amounts paid to Excelsior by category of Permitted Expense, with a brief description of why each paid expense qualifies as a Permitted Expense.
- 3. The Commission hereby rejects Xcel Energy's request to allocate to Minnesota ratepayers alone all costs of the grant to Excelsior Energy Inc.
  - 4. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar  
Executive Secretary

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